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IAB #IV2113036

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
IAB CASE #IV 2113036

SUBJECTS: JOE MARTINEZ, Deputy, [redacted]

LOCATION: [redacted] Valinda

DATE/TIME OF INCIDENT: February 4, 2004 / 1705 hours / Wednesday

DATE OF DEPARTMENT KNOWLEDGE: February 6, 2004

ALLEGATIONS

This case pertains to an allegation that Deputy Joe Martinez, assigned to Cerritos Station, wrote false information in a Fire Report he submitted while assigned to Industry Station on February 4, 2004.

It is also alleged that he provided false statements during interviews with various media personnel about his handling of a house fire incident, and his participation in the rescue of several children from that burning structure.

SYNOPSIS

On Wednesday, February 4, 2004, Deputy Joe Martinez was assigned to Industry Station, working the East Valinda area as Unit 144D P.M.'s. At approximately 1705 hours, while traveling south on Azusa Avenue near Villa Park Street, he noticed dark clouds of smoke in the residential area to the east of him.

As he drove toward the source of the smoke, he noticed the home at [redacted] was fully engulfed in flames and smoke. He used his radio to contact the Sheriff's Communication Center (SCC) and requested that the fire department respond to the location.

Deputy Martinez then blocked the road by parking his car diagonally across Villa Park Street, between the structure fire and Azusa Avenue. He exited his car and was immediately contacted by a 15-year-old female, [redacted], who told him there were three children still inside the house. As he approached the house, he momentarily saw two men come from the rear, then lost sight of them. He used his [handheld] radio to request assistance, then approached the front door. He

opened the door and entered momentarily, but was forced to retreat due to the heavy smoke and heat.

Deputy Martinez then noticed a large window to the left of the front door. He approached the window and used his flashlight to break the glass, noticing in his peripheral vision that another male [redacted] was also breaking the glass with his hand. Deputy Martinez and [redacted] both began yelling in Spanish for the children to come to the window. Although the smoke was thick and visibility was limited, a young female [redacted] appeared near the window. [redacted] reached over the window frame and grabbed hold of the girl, lifting her out through the window.

Deputy Martinez continued to yell for anyone inside to come to the window. Suddenly a second young female [redacted] came to the window. Deputy Martinez leaned over the window frame and grabbed hold of her, lifting her out through the window. He then handed the little girl to an unknown person.

As Deputy Martinez handed the [redacted] girl to a bystander, another teenager, [redacted] ran to the window and jumped inside, disappearing into the thick smoke. Moments later, [redacted] appeared at the window carrying an infant [redacted] which he handed through the window to Deputy Martinez. As Deputy Martinez handed the [redacted] to another bystander, [redacted] exited the house by jumping back through the window.

Deputy Martinez, believing that all [redacted] had been evacuated from the house, began yelling for everyone to get away from the house. As assisting units arrived on scene, Deputy Martinez attempted to control the crowd that had gathered. Simultaneously, the fire department arrived and took control of the scene.

IAB NOTE: At some point during the rescue operation, and again after the fire department had assumed control of the scene, Deputy Martinez was contacted by [redacted] an off-duty deputy assigned to the Twin Towers Correctional Facility. Although she did not tell Deputy Martinez she was an off-duty deputy until the event had concluded, her participation in, and observations of, the events that evening are chronicled in her summarized interview. **(Page 7 below)**

Later that evening, the P.M. Watch Commander, Lieutenant Michael Pippin, received a telephone inquiry from a local newspaper reporter regarding the incident and possible evacuation operation. Lieutenant Pippin, through the dispatcher, had Deputy Martinez call him with an overview of the event. While briefing Lieutenant Pippin on the chain of events, Deputy Martinez mentioned that he and two citizens "rescued" three children from the burning house.

As a follow-up to that telephone call, Lieutenant Pippin asked the Field Sergeant, Eric Lindblom, to meet with Deputy Martinez and gather information for a "Press Release" and a "Life-Saving" award.

Based on the information he received from Deputy Martinez and Sergeant Lindblom, Lieutenant Pippin prepared a press release, which he faxed to the City News Service and the Sheriff's Headquarter's Bureau. As a result of that press release, Deputy Martinez conducted several on-camera interviews with television news organizations that evening.

IAB NOTE: Refer to Lieutenant Pippin's memorandum to Captain Michael Smith **(Exhibit A/ Pages 88-90)** and the "Press Release" he authored **(Exhibit A/ Page 83)**.

The following day, February 5, 2004, allegations began to surface that Deputy Martinez' account of the events was not accurate. Several witnesses to the event had seen Deputy Martinez' television news interviews, and claimed that he had no part in rescuing the children from the burning home. Witness claims of Deputy Martinez' participation ranged from him merely holding a flashlight that illuminated the rescue area, to him sitting in his patrol car during the entire rescue operation.

As a result of the allegations, Internal Criminal Investigations Bureau was assigned to investigate the incident. The findings of their criminal investigation were presented to the "Justice System Integrity Division" (JSID) unit of the District Attorney's Office.

IAB NOTE: On May 5, 2004, Deputy District Attorney Christian Gullon declined to file criminal charges in the matter, citing "Insufficient Evidence" to sustain prosecution. **(Exhibit A/ Pages 45 B-E)**

In the "Conclusion" section of his "Charge Evaluation Worksheet," D.D.A. Gullon stated , "There is no conclusive or compelling evidence to indicate that the report of the fire prepared by [Deputy] Martinez is false. The report is clearly a summarization of many events that occurred. Different witnesses gave different accounts of what happened that day under highly stressful and confusing conditions. Several witnesses contradict each other. In his report, [Deputy] Martinez only summarizes the accounts of the witnesses he believed were the most important witnesses." ..... "While the perception, based solely on news coverage and news reports, is that [Deputy] Martinez was the sole actor, his report clearly indicates otherwise." **(Exhibit A/ Page 45-E)**

WITNESS INTERVIEWS

IAB NOTE: The following summaries emanate from interviews conducted by Internal Criminal Investigations Bureau during their criminal investigation of these allegations.

WITNESS ERIC LINDBLOM is a sergeant assigned to Industry Station. He was the field sergeant on the evening of February 4, 2004.

IAB NOTE: Witness Lindblom authored a memorandum to Industry Station Captain Michael Smith on February 7, 2004, detailing his interaction with Subject Martinez on the evening of February 4, 2004. **(Exhibit A/ Pages 84-87)**

Witness Lindblom said he heard Deputy Martinez' assistance request via Sheriff's radio. When he arrived at [redacted]] six to seven minutes later, he saw several deputies already in the process of trying to confirm that the [fourteen] residents of the home were accounted for.

Witness Lindblom said he spoke to Deputy Martinez several times during their initial 30 to 45 minutes contact at the scene. During that time, Deputy Martinez mentioned that people had been evacuated from the house, but never discussed how many or how that was accomplished.

Later that evening, Witness Lindblom was asked by the watch commander, Lieutenant Pippin, to return to the scene and obtain additional information on the fire for a media inquiry regarding possible evacuations. He returned to the scene and found Deputy Martinez talking to Lieutenant Pippin on his cell phone. When he finished, Deputy Martinez told Witness Lindblom that Lieutenant Pippin had instructed him to call a reporter from a local newspaper to provide them with information about the house fire. Since Deputy Martinez was apprehensive about calling a newspaper reporter, Witness Lindblom offered to make the call for him. Witness Lindblom, who knew the reporter, provided them with the facts of the incident.

A short time later, Witness Lindbloom received a telephone call from Lieutenant Pippin instructing him to write a "Life-saving award" for Deputy Martinez. Lieutenant Pippin also needed additional information to complete and issue a press release regarding Deputy Martinez' handling of the incident.

Witness Lindblom felt "blind sided" by Lieutenant Pippin's request because Deputy Martinez had told him nothing about saving a life. He contacted Deputy Martinez to ascertain what occurred during his handling of the incident. Deputy Martinez told him that as he arrived on scene, he was contacted by a [redacted] female ([redacted] in front of the burning house. He noticed two teenagers ([redacted] coming from the rear of the house. [redacted] kicked open the front door, and at some point Deputy Martinez started to enter the home through the front door, but was turned away by the smoke and heat.

Deputy Martinez said that after retreating from the house, he accompanied [redacted] and [redacted] to the front window, where [redacted] broke the window with his hand. They called out [in Spanish] for the children to come to the window. When a [redacted] child came to the window, [redacted] grabbed hold of her and lifted her through the window. Deputy Martinez then leaned inside the window and saw a [redacted] child, who he (Martinez) lifted out through the window. Deputy

Martinez handed the [redacted]-old to someone, then turned around to see [redacted] standing inside the house holding a [redacted]-old child.

IAB NOTE: At Witness Lindblom's request, Deputy Martinez re-enacted what he had done, including entering the house briefly through the front door, and his actions in rescuing the one child at the window.

After reviewing the Fire Report written by Deputy Martinez, Witness Lindblom commented on the following similarities and differences to what Deputy Martinez told him that night.

- Regarding the statement, "Myself, along with Witness [redacted], managed to shatter a bedroom window located in front of the house, east of the front door." Witness Lindblom said Deputy Martinez had not told him that. In fact, Deputy Martinez "made it very clear" to him that [redacted] had broken the window.

- Regarding the statement, "I observed the [redacted]-old girl jumping up and down in an attempt to get my attention." Witness Lindblom recalled Deputy Martinez stating that he could not see anything inside due to the heavy smoke, and somehow found the girl by reaching inside the window.
- Regarding the statement, "Witness [redacted] jumped inside the residence through the front window and retrieved a male Hispanic [redacted]). Witness [redacted] then handed the infant to me, ensuring his safety." Sergeant Lindblom said Deputy Martinez never told him that [redacted] handed the youngest child to him.

IAB NOTE: Witness Lindblom said Deputy Martinez never mentioned an off-duty deputy sheriff being at the scene of the fire.

On February 5, 2004, Witness Lindblom conducted interviews with several witnesses to the incident. While interviewing [redacted] kept saying "we" got the third child out of the house. However, [redacted] never actually told him who rescued the third child.

IAB NOTE: An audio tape of Witness Lindblom's interviews accompanies this case file. **(Audio Tape #4)**. Witness Lindblom summarized those interviews in a memorandum dated February 7, 2004. **(Exhibit A/ Page 84)**

WITNESS MICHAEL PIPPIN is a Lieutenant assigned to Industry Station. He was the P.M. shift watch commander on the evening of February 4, 2004, and had a discussion with Subject Martinez that evening regarding his handling of the house fire.

IAB NOTE: Witness Pippin authored a memorandum to Industry Station Captain Michael Smith on February 6, 2004, detailing his interaction with Deputy Martinez on the evening of February 4, 2004, relative to the structure fire incident. **(Exhibit A/ Pages 88-90)**

On February 4, 2004, shortly after 5:00 p.m., Witness Pippin was meeting with a citizen in his office when he heard a portion of the emergency radio broadcast initiated by Deputy Martinez. The broadcast requested that fire department resources respond to [redacted] regarding a structure fire. Since the watch deputy had not personally notified him of any additional information, he continued his meeting. When the meeting concluded, he went to the dispatch area to inquire about the incident. He was told there had been no evacuations at the scene and everything was under control.

At approximately 2000 hours, Witness Pippin received a telephone call from a local newspaper reporter who was inquiring about the ongoing "activity" at the [redacted] structure fire and the possible evacuation operation. Witness Pippin went to the dispatch area and learned that a gas leak had developed at the scene and adjacent residents had been evacuated. He instructed the dispatcher to have Deputy Martinez call him from the scene for an update.

IAB NOTE: Witness Pippin also instructed his field supervisor, Sergeant Eric Lindblom, to respond to the scene and provide him with an update on the situation.

Witness Pippin received a telephone call from Deputy Martinez, who was still at the fire scene. As Deputy Martinez provided the details of the evacuations and specifics about the fire, he stated, "I kind of saved some kids." Deputy Martinez' statement piqued Witness Pippin's interest, so he asked Deputy Martinez to elaborate.

As Deputy Martinez provided the details of his actions, Witness Pippin took handwritten notes on several pages of scratch paper. He later used those notes to immediately draft a press release **(Exhibit A/ Page 83)**, before throwing the notes away.

IAB NOTE: Witness Pippin said their telephone conversation took place on a non-recorded telephone line.

Although Deputy Martinez described heroic actions, he did not come across as having bravado, bragging, or in any way seeking attention. Deputy Martinez was very humble in the way he related the facts and gave accolades to the citizens who assisted in rescuing the children. He made no mention of an off-duty deputy being present when the children were being rescued.

Witness Pippin denied saying anything to Deputy Martinez during their telephone conversation that would have caused him to exaggerate or embellish the details of the incident. Since Deputy Martinez mentioned the subject of "saving kids," Witness Pippin took the opportunity to shed a positive light on Industry Station and Deputy Martinez. Witness Pippin said he never suggested

to Deputy Martinez that he was a hero. He simply asked Deputy Martinez what happened, then listened and took notes.

Witness Pippin could not recall if he specifically told Deputy Martinez that he was using the information to prepare a press release. He did recall telling Deputy Martinez that he was "proud" of him and that he planned to notify the captain regarding his actions.

When Sergeant Lindblom called to update him, Witness Pippin read him the press release he had prepared to confirm its accuracy. Witness Pippin could not recall if he ever told Deputy Martinez that he was preparing a press release or would make him available for media interviews if needed.

IAB NOTE: After reviewing a copy of the fire report **(Exhibit A/ Pages 46-52)**, Witness Pippin said the report related the incident in much greater detail than Deputy Martinez had provided him on February 4, 2004, but the two versions were generally consistent.

WITNESS [redacted] is a deputy assigned [redacted] at Industry Station. He was not present at the house fire on February 4, 2004, but had a telephone conversation with Deputy Martinez on the morning of February 5, 2004, so he could be briefed on the house fire incident for a Spanish language television interview.

IAB NOTE: Witness [redacted] authored a memorandum to Lieutenant Alicia Ault on February 6, 2004, documenting what Deputy Martinez told him about his handling of the February 4, 2004, house fire incident. **(Exhibit A/ Pages 55-60)**

Sergeant William Cassidy called Deputy Martinez at home from a [non-recorded] telephone line in the watch commander's office. He asked Deputy Martinez to brief Witness [redacted] on the incident, then handed the telephone to Witness [redacted]

IAB NOTE: A check of Industry Station's "Voice Print" system confirmed there were no recorded telephone calls on the watch commander's telephone line on the morning of February 5, 2004.

As stated in Witness [redacted] memorandum, Deputy Martinez told him that he (Martinez), [redacted] attempted to enter the house via the front door, but were unable to because of the heat and smoke. They began yelling [in Spanish] for the children. Deputy Martinez told Witness [redacted] "one of the citizens then entered the room through the window," but Deputy Martinez did not elaborate – Witness [redacted] assumed Deputy Martinez meant that he and one of the citizens were physically inside the room – but Witness [redacted] did not specifically inquire as to which citizen had gone inside the house with him.

Deputy Martinez told Witness [redacted] that thick smoke made it difficult to see, so he felt around and located "some children." The children were then passed through the window "to safety."

IAB NOTE: Witness [redacted] immediately drafted a narrative for the media interview based on what Deputy Martinez told him (**Exhibit A/ Page 60**).

WITNESS [redacted] is a deputy assigned to the Twin Towers Correctional Facility. On the evening of February 4, 2004, she was off-duty and visiting her [redacted] at [redacted]

Sometime around 1700 hours, her [redacted] noticed something burning in front of their house. Witness [redacted] went outside and saw smoke coming from the house [redacted]

As Witness [redacted] and several family members ran toward the house, she saw three or four teenagers exit the home yelling, "Call 911." Witness [redacted] asked the teenagers if there was anyone else inside the home, but the teenagers said they did not know.

Witness [redacted] approached the home and saw that the front door was wide open. She and a [unknown] teenage girl - who said she lived at the home - yelled inside to see if anyone was there. Several of the male teenagers ran around the house, telling her they did not see or hear anyone inside, but that flames were inside the rear of the home. Witness [redacted] did not see any flames at that point, but saw black smoke billowing out the front door.

Deputy [redacted] saw a patrol car stop in front of the house, and a deputy, who she later identified from his name tag as Deputy [Subject] Martinez, exited the car. When Deputy Martinez realized the house was on fire, he got back into his patrol car and drove in reverse to the corner of Villa Park Street and [the frontage road adjacent to] Azusa Avenue.

Deputy Martinez then returned to the house on foot and yelled for everyone to get away from the house and to move all vehicles that were parked on the street near the house. Since her car was parked in front of the burning house, Witness [redacted] moved her car in front of a neighbor's home and ran back to the burning house.

When Witness [redacted] returned, the female teenager, now crying and frantic, told Witness [redacted] that there were children inside the house, but she didn't know how many children or their ages. Witness [redacted] who was standing at the curb near Deputy Martinez, told him that there were children in the home. Deputy Martinez responded by telling her that the fire department had already been summoned. Deputy Martinez interrupted her by holding his hand up in a gesture indicating he was trying to listen to radio traffic on his portable radio.

IAB NOTE: Witness [redacted] said she never identified herself as an off-duty deputy sheriff until sometime after the fire department had arrived on scene and took control of the incident.

Witness [redacted] ran toward the house. She, [redacted] and [redacted] looked inside a front window, but could not see anything due to the thick black smoke. Witness [redacted] retrieved a skateboard lying nearby and prepared to break the window, but [redacted] broke out the window with his hand. Witness [redacted] then used the skateboard to remove the remaining glass shards from the window frame.

[redacted] and [redacted] then straddled the window and shouted inside for the children. Witness [redacted] saw [redacted] and [redacted] both pick up a young girl and lift her out through the broken window. The girl, approximately four or five years of age, appeared scared, but was not injured or crying.

Witness [redacted] picked up the girl and gave her to one of [redacted] who was standing nearby. [redacted] and [redacted] continued yelling through the window, then pulled out another young girl who appeared to be approximately [redacted] old. Witness [redacted] recalled taking the girl and sitting her down, but she could not remember who took the child [redacted]. She then recalled [redacted] neighbor [redacted] coming to the window, and the two of them shouting inside to find the remaining child. She turned around and saw Deputy Martinez standing a few feet behind her. She heard either [redacted] or [redacted] ask Deputy Martinez if he had a flashlight. Witness [redacted] saw Deputy Martinez, standing three to five feet from the window, hold his flashlight over his head to illuminate the room.

Witness [redacted] then saw [redacted] and [redacted] pull a [redacted]-old infant boy from inside the window. The infant, donning only a diaper, was given to [redacted] while Witness [redacted] and [redacted] helped one of the teenagers [redacted] exit the house through the window.

Witness [redacted] said everyone ran across the street [redacted] as Deputy Martinez tried to control the crowd that had gathered. She heard Deputy Martinez tell the crowd to get away from the house because the blowing smoke was very toxic and dangerous.

After returning to [redacted] lawn, Witness [redacted] noticed Deputy Martinez standing in the middle of the street talking with another uniformed deputy. She approached Deputy Martinez and introduced herself as an off-duty Los Angeles County Deputy Sheriff assigned to Twin Towers. She pointed out that the three children who had been inside the house were on her [redacted] lawn, but she did not know who the children belonged to. Deputy Martinez acknowledged Witness [redacted] with a nod of his head, so she walked back to her [redacted] house. A few minutes later, Deputy Martinez approached her and directed her to give the children to a woman who was standing on the other side of the street in front of a neighbor's house.

Witness [redacted] said that to her knowledge, there were only three children rescued from the house that evening, and all three were rescued from the same window. When she first approached the house looking for the children, she went down to her knees trying to look past the dense smoke, and shouted in Spanish, "Kids! Kids! Is there anyone in here?" She saw [redacted] enter and immediately exit the house via the front door.

IAB NOTE: Witness [redacted] said that when fire department personnel arrived on scene, all the children had already been rescued from the house.

Witness [redacted] saw a television news program about the house fire. She heard Deputy Martinez say something about an "adrenaline rush," and something about being "glad the citizens were there to help," but it really caught her attention when he said something about "we saved the children."

IAB NOTE: Witness [redacted] felt Deputy Martinez had no involvement in the rescues and should not have included himself by using the word, "we."

Witness [redacted] called her on February 5, 2004, to inform her that a reporter from Channel 7 News was asking questions about her [redacted] She told [redacted] she did not want to be involved with any media attention and asked her not to disclose any personal information about her.

Witness [redacted] was later told that [redacted] had been interviewed by the news media and said that Deputy Martinez sat in his patrol car while the children were being rescued. She did not know if [redacted] was referring to the entire incident or a portion of it.

IAB NOTE: On February 5, 2004, when media attention began to focus on the conflicting accounts of the event, Witness [redacted] called her Watch Commander, Lieutenant Reginald Wright, to inform him of her off-duty actions at the house fire the previous night. Lieutenant Wright memorialized Witness [redacted] statements to him in a memorandum to Twin Towers Captain Marilyn Baker. **(Exhibit A/ Page 53).**

WITNESS [redacted] (MH/17) was visiting his girlfriend, [redacted] on the afternoon of February 4, 2004 ([redacted] resides at [redacted]. As [redacted] and several friends stood in front of the house talking, he noticed smoke coming from the house. [redacted] went to the front door and kicked it open, but could not see inside because of the heavy smoke. He and the others ran to the back yard, where they saw flames coming from the windows and back door. [redacted] and [redacted] returned to the front of the house, where [redacted] tried unsuccessfully to call 911 using a cordless phone from the house.

[redacted] ran toward [redacted] home across the street and told them to call 911. He then returned to the burning house and asked [redacted] where the children were inside the house. She directed him to a front window to the left of the front door. [redacted] then broke the window with the palm of his right hand and began yelling for the children inside to come to the window. His [redacted] broke out the remaining shards of glass.

IAB NOTE: Witness [redacted] said he and [redacted] were the only people who yelled into the house for the children.

Witness [redacted] said he never saw anyone using a skateboard to break glass from the window. He was later told that someone used a skateboard to break the glass out of the window to the right of the front door, but that window had security bars and could not be opened.

[redacted] heard a little girl screaming and saw [redacted] a [redacted] or [redacted]-year-old girl, waving her arms as she came to the window. [redacted] pulled the her out of the window and handed her to [redacted] who in turn handed her to [redacted]

[redacted] then saw another little girl, nicknamed [redacted] come to the window, so he leaned inside and picked her up, then handed her to a [unknown] neighbor. [redacted] saw Deputy Martinez arrive in his patrol car as the second child was being removed from the window. Deputy Martinez got out of his car and appeared to talking on his radio.

[redacted] ran to [redacted] who was holding the first child rescued from the house. The child kept screaming, "My baby! My baby!" At first, [redacted] didn't know if she was referring to a real baby or a doll, but then realized she was referring to a real baby.

[redacted] saw Deputy Martinez talking on his radio in the middle of the street and approached him asking, "If there's one more kid in the house, can you help me out?" Deputy Martinez replied with something like, "You go back in," and just stood there.

IAB NOTE: Later in the interview, Witness [redacted] said that Deputy Martinez stated something like, "No, you go get him."

When [redacted] saw that Deputy Martinez was not going to help, he and [redacted] ran back to the house. [redacted] jumped into the house through the broken window as [redacted] turned to see Deputy Martinez standing three or four feet behind him. [redacted] asked Deputy Martinez, "Can we at least borrow your flashlight?"

IAB NOTE: Witness [redacted] knew Deputy Martinez' name because he read it on his name tag during a conversation that evening.

[redacted] said Deputy Martinez held his flashlight over his (Martinez') head, illuminating the window and interior of the room. [redacted] shouted that he had located the third child, and handed the child to [redacted] through the window. [redacted] then helped [redacted] exit the window before they moved to the curb area.

IAB NOTE: Witness [redacted] later heard that the neighbors from across the street, and Deputy Martinez, told the television news that they were involved in rescuing the children from the house.

Witness [redacted] recalled one neighbor using a garden hose to combat the flames, but otherwise, [redacted] received no assistance from the neighbors in rescuing the children.

WITNESS [redacted] (MH/22) was visiting his mother, [redacted] on the afternoon of February 4, 2004. At his mother's prompting, he looked out the front window and saw smoke across the street. As he walked outside to investigate, he saw several teenagers running toward him from across the street yelling, "Call 911." He then noticed their house was on fire. He heard one of the teenage girls say there were some kids still inside the house, so [redacted] ran to the house with his cousin, [redacted] and his aunt, [redacted]

As he approached the house, he saw a Sheriff's patrol car pull onto [redacted] and saw Deputy Martinez get out and run toward the burning house. Deputy Martinez then returned to his car and backed it to the end of [redacted] at Azusa Avenue, blocking the entrance to the street.

[redacted] saw [redacted] run to a window located to the right of the front door, while [redacted] and a teenage boy [redacted] ran to a window located to the left of the front door. Witness [redacted] took off his shirt and placed it over his mouth so he could breathe as he ran into the burning house. [redacted] entered the house through the front door and yelled [in English and Spanish] for the children, but heard no reply.

As [redacted] exited the house, he looked up the street and saw Deputy Martinez still sitting in his patrol car, parked at the end of the street. [redacted] saw a water hose running near the front door, so he started to spray the house while continuing to yell for the kids.

[redacted] saw that [redacted] was at the [left] window with [redacted] and had punched the window with his hand, breaking the glass. [redacted] dropped the hose and ran to help, as [redacted] used a skateboard to break out the remaining glass shards from the window frame.

[redacted] then reached through the window and removed a girl, who was the oldest of the three children rescued that day. [redacted] passed the girl [redacted] who in turn passed the child to [redacted]

[redacted] was standing next to [redacted] when [redacted] reached through the open window and pulled another child out with [redacted] assistance. Witness [redacted] then passed the child to a [unknown] neighbor.

[redacted] heard someone say there were still children inside the house, so [redacted] went to the rear of the house in an attempt to locate the other children. As he was running to the rear of the house, he looked up the street and saw Deputy Martinez still sitting in his patrol car talking on his radio.

[redacted] said that he and his neighbors, [redacted] and [redacted] went to the rear of the house, entered through the back door, and began searching the rear rooms. [redacted] heard someone yell that everyone was out of the house, so he ran to the front yard. He saw Deputy Martinez running toward him yelling, "Get away from the toxic smoke."

[redacted] said that after the fire department arrived, he and his family went inside his mother's house. [Deputy] [redacted] left briefly to contact Deputy Martinez and let him know where the family would be if needed.

IAB NOTE: Witness [redacted] did not recall seeing anyone with a flashlight during the rescue. He recalled seeing a "light" right before the third child was rescued, but did not know the source of it.

Witness [redacted] said a [unknown] teenager later told him that he had borrowed Deputy Martinez' flashlight during the rescue.

[redacted] saw Deputy Martinez being interviewed on the [television] news and was upset that he was taking credit for rescuing the children from the home. The following day, February 5, 2004, Witness [redacted] was interviewed by a Channel 7 News reporter at his mother's house regarding his thoughts about the deputy's actions at the fire.

IAB NOTE: During a videotaped interview with Channel 7 News on February 5, 2004, Witness [redacted] made the following statements:

- "It's totally wrong. Because he was no where near the fire when we pulled the kids out."

- "[Deputy Martinez] was no where near the house. He stayed in his vehicle down the street on the corner and blocked off the road. That's about all he did. Then afterward, he started taking accounts of what happened from our neighbors and stuff from over here."

- "Because – an officer – he's there to protect us and help us. He should be honest and [have] integrity. Where is the integrity there? He knows he wasn't the one who did anything. Why is he even saying he was?"

- "It was myself, my cousin – who wishes to remain nameless – and our neighbor, that – we actually went inside the house and pulled the three kids out. We broke through the window. We pulled the kids out. So, the Sheriff that pulled in, all he did was sit in his car while we did pretty much the work."

Witness [redacted] said the anonymous person referred to in his Channel 7 News interview, as assisting him with the rescue, is [Deputy] [redacted]

IAB NOTE: Since this incident, the home at [redacted] has been razed. Investigators from Internal Criminal Investigations Bureau videotaped the scene on February 10, 2004. That videotape is retained in their ICIB case file.

WITNESS [redacted] (MH/18), and his cousin, [redacted] (MH/17), were visiting [redacted] at her home [redacted] in La Puente on February 4, 2004. While standing outside, [redacted] noticed a fire inside the house. [redacted] and [redacted] then ran from the back of the house to the front.

IAB NOTE: Witness [redacted] speaks only Spanish. He was interviewed by Sergeant Henry Garza, Internal Criminal Investigations Bureau.

During his interview, [redacted] said that he, [redacted] and several others, were standing in "front" of the home when he noticed the fire. [redacted] said he kicked open the front door while the others ran to the back of the house.

[redacted] noticed two windows in the front of the house, one with security bars attached (to the right of the front door) and one without (to the left of the entry door). [redacted] approached the window without the security bars and used his fist to break the window. When Witness [redacted] realized that [redacted] hand was cut and bleeding, he pushed [redacted] aside and removed the remaining glass shards from the window frame with his hand.

IAB NOTE: During [redacted] interview, she said she removed the remaining glass shards from the window with a skateboard.

[redacted] heard screams from inside the house and yelled [in Spanish] for anyone inside to come to the window. When a young girl appeared, he reached inside the window and removed her from the house. [redacted] carried the girl across the street and handed her to [redacted] He later learned that while he was across the street, a second child was rescued from the house, presumably by [redacted]

As [redacted] returned to the burning house, he noticed a deputy (Martinez) standing by his patrol car parked at the end of the street. [redacted] and [redacted] ran to Deputy Martinez and told him there were still children inside the house. Deputy Martinez said somcthing in response, but since [[redacted] does not understand English very well, he did not know what he said.

[redacted] and [redacted] returned to the house and saw that their friend, [redacted] had gone into the house by jumping through the broken window. [redacted] retrieved a small boy from inside and handed him to [redacted] who in turn gave the boy to an unknown neighbor. [redacted] noticed that Deputy Martinez had approached the house and was standing close to the window, illuminating the inside with his flashlight.

IAB NOTE: Witness [redacted] said he did not recall ever seeing his neighbors [from [redacted] or Deputy Martinez assist with the rescue of the children.

Witness [redacted] saw [redacted] who he referred to as [redacted] break the glass out of the window [with the security bars attached] to the right of the front door. [redacted] cousin, [Deputy] [redacted] was standing near by, and used a skateboard to also break glass from the [same] window with bars attached.

IAB NOTE: [redacted] is referred to as [redacted] because he was recently discharged from the United States Marine Corp.

WITNESS [redacted] (MH/18) was visiting his friend, [redacted] outside the home on [redacted] when the fire broke out. When he saw smoke, [redacted] knocked on one of the windows and yelled for anyone inside to come out. He knew there were three children inside, but did not see anyone. He ran to the back door and kicked it open, but the flames and smoke prevented him from entering.

[redacted] grabbed a water hose and attempted to extinguish the fire, but the water had no effect on the fire. He then ran to the front of the house and saw tha [redacted] had used his hand to break out the window to the left of the front door.

[redacted] saw [redacted] nd [redacted] rescue two children from the window. [redacted] began to run across the street, but heard [redacted] say there was still another child inside. [redacted] ran back to the house and jumped inside the window that [redacted] had broken out. [redacted] located the one-year-old boy sitting on a mattress in the room, picked him up and held him as he exited

through the same window. He took the boy across the street and handed him to a [unknown] neighbor.

IAB NOTE: Witness [redacted] said that when he went into the house and located the last child, he saw Deputy Martinez shining his flashlight into the window. Deputy Martinez was standing right outside the window, "not even a foot" from the window.

Witness [redacted] said that there were several neighbors from across the street present during the fire, but none of them actually participated in the rescues. In fact, the neighbors did not arrive until after the rescues had taken place.

WITNESS [redacted] (FH/15) was standing in [redacted] with her boyfriend, [redacted] and several of his family members when the fire started. [redacted] noticed smoke coming from the main house. [redacted] tried to use her telephone to call for help, but the telephone service was out of order.

[redacted] and several family members checked the perimeter of the house for a water hose or a way to get inside the house. [redacted] and [redacted] went to a front window, which [redacted] broke out with his fist.

[redacted] was not sure in which order the three children were brought out through the window, but recalled [redacted] handing her one of the little girls, which she took across the street to her neighbor's front yard. [redacted] said there was another man at the window helping in the rescue, but she could not identify him.

[redacted] said the first time saw a deputy at the location, he was standing in the street next to his patrol car, talking on his radio. She thought the deputy spoke Spanish, but did not talk to him until the children had been rescued from the house.

[redacted] saw Deputy Martinez standing in the front yard of the burning house, between the pedestrian gate and the front of the house, but never saw him go any closer to the house, or the window where the children were rescued.

IAB NOTE: Witness [redacted] recalled Deputy Martinez holding a flashlight in his hand at some point that evening, but could not recall if the light was turned on, or how he was holding it. She could not recall seeing anyone else using Deputy Martinez' flashlight that evening.

WITNESS [redacted] (FH/14) was at home with her sister [redacted] and [redacted] when they realized their house was on fire. [redacted] and [redacted] went to the front window and attempted to rescue the children who were still inside. [redacted] saw [redacted] break the window with his hand.

[redacted] first saw Deputy Martinez standing in the middle of the street near his patrol car. She never saw him enter the yard of the location, but thought she saw [redacted] talking to him at some point. She believes [redacted] asked Deputy Martinez if he could borrow his flashlight, and Deputy Martinez loaning [redacted] the flashlight, but she couldn't be certain. There were no other deputies at the location at that time.

IAB NOTE: Witness [redacted] remembered another neighbor having a flashlight at the scene, but she could not identify or describe him.

[redacted] did not see the children actually being rescued from the house, but recalls someone handing her the [redacted]-old, which she believed was the first child rescued.

[redacted] did not see any of her neighbors run into the burning house, nor did she see anyone try to squirt the house with a water hose.

WITNESS [redacted] (FH/57) resides at [redacted] from the home that burned in this incident. On the evening of February 4, 2004, her [redacted] and several small children were visiting her. As she returned from her garage, [redacted] noticed smoke coming from the house [redacted] She also saw several teenagers running from the house yelling, "Call 911."

[redacted] and [redacted] ran across the street as a police car arrived. [redacted] removed his shirt and used it to cover his head as he entered the house through the front door. [redacted] saw [redacted] exit almost immediately because of the heavy, black smoke billowing from the house.

[redacted] heard one of the teenagers say there were three children inside the house, then heard a window break at the front of the house. She watched as [redacted] went inside, but got very nervous and approached [Deputy Martinez], who was sitting in his police car near the corner of [redacted] and Azusa Avenue. She told Deputy Martinez, "We need help! There are three kids inside!" [redacted] said Deputy Martinez was talking on his radio, and made a movement indicating he was going to remove his seatbelt, so [redacted] ran toward the house yelling for [redacted]

[redacted] saw that two children had already been rescued from the house, but heard a teenage girl say there was still another child inside. [redacted] said the first two children had been rescued from the house by [redacted] and a [unknown] teenage boy, who handed the rescued children to [Deputy] [redacted]

Witness [redacted] did not see the last child being rescued, but saw [redacted] carrying that child. She then saw one of the teenage boys being helped out of the house through the broken window. Due to the trauma of the incident, Witness [redacted] had a difficult time remembering the sequence of events that evening. However, she did recall approaching Deputy Martinez on two occasions. Each time she approached him, he was sitting in his patrol car, parked at the corner of [redacted] and Azusa Avenue.

A short time later, she noticed several family members on the front lawn of her home holding the rescued children. At that point, she saw Deputy Martinez get out of his patrol car and tell everyone to get away from the house.

IAB NOTE: When confronted with [redacted] statement that Deputy Martinez had approached the window and used his flashlight to illuminate the interior of the home, Witness [redacted] replied, "No, I swear he never left his car."

[redacted] later said that while discussing the issue with [redacted] told her, "You see something, and I see something."

[redacted] said the children were rescued from the window to the left of the front door. That was the only window in the house without security bars. [redacted] also said she used a towel and peroxide to cleanse the bloody cut on [[redacted]] hand after he had broken the front window.

Witness [redacted] said she saw Deputy Martinez' television news interview, but could not believe that [Deputy Martinez] talked about it being "his job," and the "adrenaline kicking in," because she knew he had not been involved in rescuing the children from the home.

IAB NOTE: Witness [redacted] was adamant that Deputy Martinez sat in his patrol car during the entire rescue sequence.

WITNESS [redacted] (FH/37) is the sister of [redacted] She was visiting [redacted] on the afternoon of February 4, 2004, when the house fire occurred.

IAB NOTE: Since Witness [redacted] speaks only Spanish, her interview was conducted by Internal Criminal Investigations Bureau Sergeant Henry Garza.

Witness [redacted] said her sister, [redacted] noticed smoke in front of her home. [redacted] and other family members ran outside and saw several teenagers running from the house [redacted] yelling, "Call 911." One of the teenager girls was yelling that there were children inside the house. Her nephew, [redacted] and a teenage boy ([redacted] ran to the house [redacted] and [redacted]] went to the window to the left of the front door, while [redacted] went to the window to the right of the door. She saw that [redacted] was unable to break the glass until [redacted] handed him a skateboard or roller skate.

[redacted] and [redacted] went inside the house through the window that had been shattered, while [redacted] broke out the glass at her window. Even though there were security bars on her window, she heard someone inside yell, "Here they are!" [redacted] saw someone inside the house hand [redacted] a child through the shattered window. She in turn, handed the child to [redacted] ran across the street with the child while [redacted] was handed a second child by another rescuer.

[redacted] recalled seeing a police car arrive at some point. When [Deputy Martinez] arrived, he saw what was happening and immediately drove his car in reverse to the end of the street and parked it diagonally.

As [Deputy Martinez] was doing that, [redacted] heard a teenage girl say there was still one more child inside the house. As everyone ran back to the house, [redacted] saw [redacted] jump into the house through the shattered window. Simultaneously, she lost sight of [redacted] and [redacted]

Witness [redacted] went to the shattered window and took a baby, wearing only a diaper, from [redacted] who was inside the house. She then noticed [redacted] standing near the curb, talking to Deputy Martinez.

IAB NOTE: Witness [redacted] never saw Deputy Martinez approach the house at anytime during the rescues. The only time she saw him out of his car was after all the children had been rescued.

[redacted] recalled that Deputy Martinez never inquired about who had rescued the children, nor did he ask whether any of the rescuers needed medical attention for smoke inhalation.

WITNESS [redacted] (MH/14) is the nephew of [redacted] whom he was visiting on the afternoon of February 4, 2004. Witness [redacted] said he initially went over to the burning house, but returned to his [redacted] front lawn a short time later. He said that when Deputy Martinez arrived, he got out of his patrol car and started to walk toward the burning house, then returned to his patrol car and moved it to the end of [redacted] at Azusa Avenue.

[redacted] said the only time he saw Deputy Martinez get out of his patrol car was after he ([redacted] and several others were calling for [redacted] to get out of the house. [redacted] saw Deputy Martinez stand just outside the home's iron gate entry, but never saw him get any closer to the house.

IAB NOTE: Witness [redacted] never saw Deputy Martinez help with rescuing any of the children that afternoon.

Several attempts were made to contact [redacted] a witness quoted in a Los Angeles Times newspaper article (**Exhibit A / Page 94-96**), from February 12, 2004. In the article, [redacted] claimed that "he" and [redacted] were responsible for rescuing at least one of the children from the house. All attempts to contact [redacted] were unsuccessful.

Due to the varying accounts of who broke the window, and who rescued which child from the burning house on February 4, 2004, Internal Criminal Investigations Bureau prepared a "matrix" listing the names of all who were at the fire scene, and their accounts of the incident. **(Exhibit A/ Pages 97-98)**

SUBJECT INTERVIEW

SUBJECT JOE MARTINEZ was interviewed by Internal Affairs Bureau on November 5, 2004. A verbatim transcript of that interview is attached.



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

May 5, 2005

Deputy Joseph Martinez, #[redacted]
[redacted]

Dear Deputy Martinez:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days.

An investigation under File Number IAB 2113036, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/030.05, General Behavior, on or about February 4, 2004, you provided inaccurate information in a news conference when you stated the following: "I actually got to go inside," [referring to a burning residence]; and/or, "It was the best feeling in the world," when you gave one of the rescued children off to a citizen outside, [referring to the outside of a burning building]; and/or that "the window which we entered" [referring to going into a residence through a window]. The aforementioned statements led the media to believe that you actually entered the burning residence through a window and rescued a child. The statements were publicly refuted by other witnesses, causing a considerable amount of public embarrassment to the Department and to you when it was later learned that you did not actually go into the burning residence to rescue a child.

2. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/100.35, False



> Information in Records, on or about February 4, 2004, you wrote in Field Fire Report #104-07219-1442-445, that you entered a window and went into a burning residence to rescue a child. Specifically, you wrote, "in an attempt to find further residents, I went inside the front window, reaching and locating a female Hispanic." Additionally, in a news conference, you made a similar representation by stating, "We entered a window," and/or, "I actually got to go inside," and then stated that "it was the best feeling in the world" when you handed one of the rescued children off to a citizen outside. These statements, which led the media to the false assumption that you actually entered the burning residence to rescue a child, were later determined to be inaccurate.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

You may receive a copy of the material on which the discipline is based by contacting Tajuana Moore of the Internal Affairs Bureau at [redacted] and arranging an appointment during the ten (10) day period in which you may respond.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Michael W. Smith, Captain
Commander, Industry Station




MWS:KM:tm

c: Advocacy Unit
Employee Relations Unit
Marvin O. Cavanaugh, Chief, Field Operations Region III
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2113036)

LOS ANGELES COUNTY DISTRICT ATTORNEY **CHARGE EVALUATION WORKSHEET**	☐ Further investigation requested. ☐ Probation Violation in lieu of filed. ☒ Prosecution declined.	DA CASE NO. 47221786	Page 1 of 4 Date: May 5, 2004
		POLICE CASE NO. (DR OR URN NO.) 404-00006-2003-441	DA OFFICE CODE J.S.I.D. 04-0236R

SUSPECT DATA

NO.	SUSPECT NAME	BKNG NO.	CHARGE	REASON
01	MARTINEZ, JOSEPH	N.I.C.	PC134	B - Insufficient evidence

45-B

DESCRIPTION
SEE ATTACHED.

STEVE COOLEY District Attorney	COMPLAINT DEPUTY (PRINT) CHRISTIAN GULLON/smm	DEPUTY CODE 161210	COMPLAINT DEPUTY (SIGNATURE)	REVIEWING DEPUTY

In submitting this matter for consideration of a complaint, written reports of substantially all available evidence (except as to the oral information, if any, purporting to have been given by me and which is fully and correctly stated above) have been submitted to the above-named Deputy (copies of which are attached hereto) except the following:

The disposition of this matter will be final unless the commanding officer requests reconsideration of the case, stating his reasons on the back of this form.

MAILED 05|11|04

OFFICER - SGT. SUSAN VAZIRI

L.A.S.D. I.C.I.B.

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles County Deputy Sheriff Joseph Martinez [redacted] prepared false documentary evidence, in violation of Penal Code § 134. We conclude that there is insufficient evidence to support the filing of criminal charges.

The following analysis is based on reports and other materials submitted to this office on March 12, 2004 by Sergeant Susan Vaziri of the Los Angeles County Sheriff's Department, Internal Criminal Investigations Bureau. Compelled statements, if any exist, were not considered.

FACTUAL ANALYSIS

On February 4, 2004, while on patrol, Deputy Joseph Martinez observed a house on fire located at [redacted] in Valinda. In his report of the incident, Martinez stated that he was approached by witness, [redacted] who told Martinez that there were children inside the burning home. Martinez and another individual, [redacted] managed to shatter a bedroom window and yelled in Spanish in an attempt to determine if anyone was still inside the house. [redacted] reached through the window and grabbed a [redacted] year-old girl by the waist, "ensuring her safety." Martinez stated that he reached inside the front window and located a [redacted] old girl, saying (she) "was ensured safety without further incident." He did not specify how her safety was insured. Martinez wrote that a third individual, [redacted] then jumped inside the house through the window. He retrieved a one-year-old boy and handed him to Martinez "ensuring his safety."

In the report, Martinez then summarize[redacted] statement. Martinez stated that [redacted] tried to enter the house through the rear door but could not. [redacted]hen walked to the front of the house where he saw a deputy standing (unclear if refers to "off-duty" Deputy [redacted]r Martinez). [redacted] said he, [redacted] and "a deputy" safely retrieved three children from inside the house.

On February 8, 2004 Sergeant Vaziri interviewed [redacted] [redacted] said that he broke the window of the house with his hand and his cousin, [redacted] broke out the remaining glass. He said that he removed the [redacted] year old child out of the window of the burning home and carried her across the street. [redacted]hen returned, leaned in through the window, grabbed another child and handed the child to an unknown neighbor. [redacted] believes that Martinez did not arrive until after the second child was removed from the house. [redacted] said he and his cousin were the only people to call out to the occupants of the house. [redacted] said [redacted] then jumped through the window and extracted the one-year-old child. During that time Martinez was three to four feet away shining his flashlight into the house.

45-C

Deputy [redacted] was visiting her aunts [redacted] and [redacted] [redacted] and her son [redacted] live across the street from the house that caught fire. [redacted] was not on duty at the time of the fire, nor was she interviewed that day. She contacted her supervisor because of news media accounts calling Martinez a hero. [redacted] family members were outraged that Martinez was being praised for something he did not do.

[redacted] was interviewed by investigators and gave her account of the incident. She said she noticed the smoke coming from the house across the street and went towards the house. She stated that Martinez arrived in a patrol car and set up a containment area. Martinez was communicating on the radio with fire and ambulance units. [redacted] said after Martinez was on the scene, [redacted] broke the window with his hand and she used a skateboard to break out the remaining shards of glass. [redacted] said [redacted] and [redacted] together picked up the first child. She took the second child and sat her down but does not know who took the second child to safety. She then saw Martinez approximately five feet from the window shining his flashlight into the home. She stated that she and [redacted] assisted the teenager who entered the house in removing the one-year-old child.

[redacted] later saw a television news account of the house fire. She heard Martinez say he was glad the citizens were there to help, but she did not think Martinez should have used the term "we" in reference to saving the children.

[redacted] lives across the street from the location. In her interview, [redacted] was not able to articulate the exact sequence of events, but was adamant that Martinez never left the patrol car. [redacted] is [redacted] sister who was visiting her that afternoon.

[redacted] said that an unknown teenager broke the window with a skateboard that [redacted] handed him. [redacted] stated that she was handed the first child to be rescued by [redacted] [redacted] then received the two remaining children by unknown rescuers. According to [redacted] and [redacted] were not present at the window when the one-year-old was rescued. As she was crossing the street she noticed that [redacted] was talking to Martinez. [redacted] claimed that Martinez did not leave his car until all three children had already been rescued.

[redacted] was interviewed again on February 8, 2004. [redacted] said that [redacted] and [redacted] had evacuated the first two children. [redacted] then entered the house, located the one-year-old, exited the house and handed the one-year-old to a woman who is the resident of the stricken house. [redacted] said that while he was in the house, Martinez was illuminating his flashlight inside from a distance of "not even a foot" away. [redacted] also maintained that no person from across the street assisted in the rescue of the children.

45-D

CONCLUSION

Insufficient evidence exists to file criminal charges against Martinez for preparing false documentary evidence. There is no conclusive or compelling evidence to indicate that the report of the fire prepared by Martinez is false. The report is clearly a summarization of many events that occurred. Different witnesses gave different accounts of what occurred that day under highly stressful and confusing conditions. Several witnesses contradict each other. In his report, Martinez only summarizes the accounts of the witnesses he apparently believed were the most important witnesses. No statement from Deputy [redacted] appeared in Martinez's report.

Martinez's report does not contain detailed specifics of each individual's actions. He provides information that other individuals were instrumental in ensuring the safety of the three children within the home and indicates that he was present and involved in the rescue without many specifics. While the perception, based on news coverage and news reports, is that Martinez was the sole actor, his report clearly indicates otherwise.

Therefore, we decline to initiate criminal proceedings against Deputy Joseph Martinez. Our file is now closed and we will take no further action in this matter.

45-E

WILLIAM BALDERRAMA (Bar No. 112362)
DANIEL C. CARMICHAEL, III (Bar No. 123010)
LAW OFFICES OF WILLIAM BALDERRAMA
1000 S. Fremont Ave., Bldg. A1, Suite 1122
Mail Unit 63
Alhambra, California 91803
Telephone (626) 457-6010
Facsimile (626) 457-6030

Attorneys for Respondent
Los Angeles County Sheriff's Department

CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

In The Matter Of The Appeal Of Joseph Martinez, from his Fifteen (15) Day Suspension (Case No. 06-212) and his Discharge (Case No. 06-464 from his position of Deputy Sheriff

Appellant,

vs.

Los Angeles County Sheriff's Department

Respondent,

Case Numbers: 06-212 and 07-464

SETTLEMENT AGREEMENT AND RELEASE

*Agreement is Fully executed.

PRELIMINARY STATEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department (hereinafter referred to as "the Department") and Deputy Joseph Martinez, Employee Number [redacted]

RECITALS

The Department and Joseph Martinez are parties to the above-referenced matters and desire to avoid further litigation, and to settle all disputes and issues in said matters upon the terms and conditions hereinafter set forth. NOW THEREFORE, the Department and Joseph Martinez for and in consideration of the mutual covenants herein, agree as follows:

1. Upon execution of this agreement, Joseph Martinez will submit his resignation from the Department ~~for personal reasons~~ in order to retire., effective at the close of business on January 24, 2007. The Department, upon execution of this agreement, shall rescind the fifteen (15) day suspension (CSC Case No. 06-212) of Joseph Martinez, effective January 8, 2006, and the discharge (CSC Case No. 06-424) of Joseph Martinez, effective October 24, 2006. The Appellant will be made whole for the three months from October 24, 2006 to January 24, 2007 in accordance with the applicable provisions of County Code. The Department represents that it will make the Appellant whole by no later than 90 days after this

2. The Department shall seal in an envelop in a file maintained only in his Internal Affairs File, the Department's letter imposing a fifteen day suspension, dated May 1, 2006, the Department's letter of discharge, dated October 24, 2006, a copy of this settlement agreement and all other references to the suspension and the discharge in Joseph Martinez' personnel file. The envelop shall state: "To be opened only by order of the Court, the Sheriff, or with the permission of Joseph Martinez."

All materials relating to Martinez' suspension and discharge cases shall be removed from his personnel and health [illegible]

3. In consideration of the foregoing, Joseph Martinez hereby withdraws his appeals to the Civil Service Commission (CSC Case No. 06-212 and CSC Case No. 06-464) and waives any and all future administrative and/or judicial remedies involving or pertaining to either the suspension, the discharge, or the resignation, including, but not limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission.

4. The parties further agree that this Settlement shall not be considered, cited or used in any further disputes as establishing past precedent or past employment practice. This Agreement resolves the dispute between Joseph Martinez and the Department and is not to be applied to any other facts or disputes.

5. In consideration of the terms and conditions set forth herein, Joseph Martinez agrees to full release, acquit and forever discharge the County, and all present and former officers, employees, and agents of the County and their heirs, successors, assigns, and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Joseph Martinez. Additionally, Joseph Martinez specifically acknowledges that he has not been the subject of discrimination in any form, including, but not limited to, discrimination based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, parental status, or sex, and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known by him.

6. Joseph Martinez further agrees to relinquish and expressly waive all rights conferred upon him by the provisions of California Civil Code Section 1542,

which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

7. Each party hereto represents and agrees that he or it has carefully read and fully understands all of the provisions of the Agreement, and that he/she or it is voluntarily entering into the Agreement, without any duress or undue influence on the part of or on behalf of any party.

8. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile transmission of the Agreement, including signatures, shall be deemed to constitute evidence of the Agreement having been executed.

9. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this Agreement.

10. The parties agree that the foregoing comprises the entire Agreement between the parties and that there have been no other promises made by any party. Any modification of this Agreement must be in writing.

I have read the foregoing Settlement Agreement and I accept and agree to the provisions contained therein and hereby execute it voluntarily and will full understanding of its consequences.

IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement and Release on the date set forth below.

APPELLANT

9/28/2007
Date

JOSEPH MARTINEZ

FOR THE DEPARTMENT

10/2/07
Date

MARVIN O. CAVANAUGH
ASSISTANT SHERIFF

APPROVED AS TO FORM

9/28/07
Date

Mitch Kander, Esq.
Green & Shinee

9/28/07
Date

Daniel C. Carmichael, III, Esq.
Law Offices of William Balderrama



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

May 1, 2006

Deputy Joseph Martinez, #[redacted]
[redacted]

Dear Deputy Martinez:

On May 5, 2005, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2113036. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, Department executives determined that the recommended discipline is appropriate.

You are hereby notified that you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days effective May 2, 2006 through May 16, 2006.

An investigation under File Number IAB 2113036, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/030.05, General Behavior, on or about February 4, 2004, you provided inaccurate information in a news conference when you stated the following: "I actually got to go inside," [referring to a burning residence]; and/or, "It was the best feeling in the world," when you gave one of the rescued children off to a citizen outside, [referring to the outside of a burning building]; and/or that "the window which we entered" [referring to going into a residence through a window]. The aforementioned statements led the media to believe that you actually entered the burning residence through a window and rescued a child. The statements were publicly refuted by other witnesses, causing a considerable amount of public

embarrassment to the Department and to you when it was later learned that you did not actually go into the burning residence to rescue a child.

2. That in violation of Manual of Policy and Procedures Sections 3-01/050.10, Performance to Standards; and/or 3-01/100.35, False Information in Records, on or about February 4, 2004, you wrote in Field Fire Report #104-07219-1442-445, that you entered a window and went into a burning residence to rescue a child. Specifically, you wrote, "in an attempt to find further residents, I went inside the front window, reaching and locating a female Hispanic." Additionally, in a news conference, you made a similar representation by stating, "We entered a window," and/or, "I actually got to go inside," and then stated that "it was the best feeling in the world" when you handed one of the rescued children off to a citizen outside. These statements, which led the media to the false assumption that you actually entered the burning residence to rescue a child, were later determined to be inaccurate.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05, and 18.01 of the Civil Service Rules.

Within fifteen (15) business days from the date of service of this notice of suspension, you may request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Michael W. Smith, Captain
Commander, Industry Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

MWS:KM:tm

c: Advocacy Unit
Marvin O. Cavanaugh, Chief, Field Operations Region III
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Cerritos Station/unit Personnel File